

**Introduced by Committee on Education (Senators Romero (Chair),  
Alquist, Hancock, Huff, Liu, Maldonado, Padilla, Simitian, and  
Wyland)**

February 26, 2009

---

An act to amend Sections 44221, 44332.5, 44421, 44422, 44426, 44830.7, 44853, 44856, 44917, 44980, 44987.3, 52127, 52163, and 52165 of the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 509, as introduced, Committee on Education. Education.

Existing law establishes the Commission on Teacher Credentialing to issue teaching and services credentials, and to establish standards for the issuance and renewal of credentials, certificates, and permits.

This bill would update references to the commission. The bill would update cross-references, delete obsolete provisions, and would make other technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 44221 of the Education Code is amended  
2     to read:  
3     44221. The commission may employ ~~such~~ personnel as ~~may~~  
4     be necessary to carry out its duties and responsibilities. The staff  
5     of the commission shall be subject to ~~the relevant system and~~  
6     ~~procedures of the state civil service. The provisions~~ *the provisions*  
7     of the State Civil Service Act contained in Part 2 (commencing

1 with Section 18500) of Division 5 of Title 2 of the Government  
2 Code ~~shall apply to such personnel.~~

3 All ~~such~~ persons, other than temporary employees, serving in  
4 the state civil service and engaged in the performance of a function  
5 transferred to the Commission ~~for Teacher Preparation and~~  
6 ~~Licensing on Teacher Credentialing~~ or engaged in the  
7 administration of a law, the administration of which is transferred  
8 to the commission, shall remain in the state civil service and may  
9 request transfer to the commission or remain with the ~~Department~~  
10 ~~of Education~~ *department* on the effective date of this section. The  
11 status, position, and rights of any ~~such~~ person shall not be affected  
12 by his *or her* transfer and shall continue to be retained ~~by him~~  
13 pursuant to the State Civil Service Act, except as to positions the  
14 duties of which are vested in a position that is exempt from civil  
15 service.

16 SEC. 2. Section 44332.5 of the Education Code is amended to  
17 read:

18 44332.5. (a) A school district ~~which~~ *that* may issue warrants  
19 pursuant to Section 42647 may, at its discretion, provide for the  
20 registration of ~~any~~ *a* valid certification or other document  
21 authorizing the holder ~~thereof~~ to serve in a position requiring  
22 certification qualifications as an employee of the school district.

23 (b) During any period when summary criminal history  
24 information is not available from the Federal Bureau of  
25 Investigation, ~~no~~ *an* applicant for an initial credential, certificate,  
26 or permit shall *not* be employed in a position requiring certification  
27 qualifications until he or she has met the minimum requirements  
28 for a temporary certificate of clearance. A temporary certificate  
29 of clearance or a credential, certificate, or permit authorizing  
30 service in the public schools shall be issued when the applicant  
31 has:

32 (1) Made full disclosure of all facts necessary to establish his  
33 or her true identity.

34 (2) Made a statement under penalty of perjury that he or she  
35 has not been convicted of a crime which would constitute grounds  
36 for the denial of the credential, permit, or certificate applied for.

37 An applicant shall not be required to disclose, and the Committee  
38 of Credentials shall not inquire into or consider, any acts or  
39 omissions not related to the applicant's fitness to teach or to  
40 perform other duties for which he or she is certificated, or ~~which~~

1 *that* is related to his or her competence to perform the duties  
2 authorized by his or her credential.

3 (3) Paid to the Commission ~~for Teacher Preparation and~~  
4 ~~Licensing on Teacher Credentialing~~ the amount of twelve dollars  
5 (\$12) or the fees or costs which have been or will be assessed by  
6 the Federal Bureau of Investigation for the issuance of its summary  
7 criminal history of the applicant when this information is once  
8 again made available to the commission. The fees authorized by  
9 this paragraph shall be applicable to all credentials, permits, and  
10 certificates which were applied for or issued after October 1, 1981.

11 (c) Upon receipt of a statement from the Federal Bureau of  
12 Investigation that it has no summary criminal history information  
13 on the applicant, or upon receipt of the summary criminal history  
14 information and clearance by the Committee of Credentials, a  
15 temporary certificate of clearance shall be converted to a regular  
16 certificate of clearance.

17 SEC. 3. Section 44421 of the Education Code is amended to  
18 read:

19 44421. The Commission ~~for Teacher Preparation and Licensing~~  
20 ~~on Teacher Credentialing~~ shall privately admonish, publicly  
21 reprove, revoke or suspend for immoral or unprofessional conduct,  
22 or for persistent defiance of, and refusal to obey, the laws regulating  
23 the duties of persons serving in the public school system, or for  
24 any cause ~~which~~ *that* would have warranted the denial of an  
25 application for a credential or the renewal thereof, or for evident  
26 unfitness for service.

27 SEC. 4. Section 44422 of the Education Code is amended to  
28 read:

29 44422. Whenever the holder of ~~any~~ a credential issued by the  
30 State Board of Education or the Commission ~~for Teacher~~  
31 ~~Preparation and Licensing on Teacher Credentialing~~ is charged  
32 with immoral or unprofessional conduct or evident unfitness for  
33 service or persistent defiance of, and refusal to obey, the laws  
34 regulating the duties of his position, the commission in its  
35 discretion after notifying the person charged of its intention to do  
36 so, may require the county board of education of the county in  
37 which he is serving or has last served to give notice of, and  
38 conduct, a hearing of the charges in the manner prescribed by law  
39 for the hearing of charges for private admonition, or for the

1 revocation or suspension of a certificate by a county board of  
2 education.

3 The county board of education, after the hearing, shall report to  
4 the commission its findings, and a summary of the evidence, and  
5 shall make a definite recommendation concerning the revocation  
6 or suspension of the credential.

7 Upon receipt of a copy of the findings, summary of evidence,  
8 and recommendation, the commission may privately admonish the  
9 holder of the credential, or suspend or revoke the credential for  
10 the causes stated, or order the charges dismissed.

11 SEC. 5. Section 44426 of the Education Code is amended to  
12 read:

13 44426. Whenever the holder of ~~any~~ a credential issued by the  
14 State Board of Education or the Commission ~~for Teacher~~  
15 ~~Preparation and Licensing on Teacher Credentialing~~ has been  
16 determined to be a sexual psychopath under the provisions of  
17 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2  
18 of Division 6 of the Welfare and Institutions Code or under similar  
19 provisions of law of any other state, the commission shall forthwith  
20 suspend the credential. If the determination is reversed and the  
21 holder is determined not be a sexual psychopath in a new  
22 proceeding or the proceeding to determine whether he is a sexual  
23 psychopath is dismissed, the commission shall forthwith terminate  
24 the suspension of the credential. When the determination becomes  
25 final, the commission shall forthwith revoke the credential.

26 SEC. 6. Section 44830.7 of the Education Code is amended to  
27 read:

28 44830.7. Every contract for employment for a position requiring  
29 certification qualifications between a school district governing  
30 board and a person who possesses certification qualifications from  
31 another state shall provide that employment shall terminate upon  
32 notice by the Commission ~~for Teacher Preparation and Licensing~~  
33 ~~on Teacher Credentialing~~ to the district and the employee, that  
34 the employee does not have the necessary qualifications for the  
35 credential required by law for the position for which the service  
36 was rendered.

37 SEC. 7. Section 44853 of the Education Code is amended to  
38 read:

39 44853. The governing board of any school district, subject to  
40 the rules and regulations prescribed by the ~~State Board of Education~~

1 *state board*, may enter into an agreement with the proper authorities  
2 of any foreign country, or of any state, territory, or possession of  
3 the United States, or other district within the state, for the exchange  
4 and employment of regularly credentialed employees and  
5 employees of public schools of any foreign country, state, territory,  
6 or possession, or other district within this state. Any certificated  
7 person ~~so~~ employed as provided in this section shall be known as  
8 an “exchange certificated employee.” No exchange shall be made  
9 without the consent of the employee to be exchanged.

10 Due consideration shall be given to the general qualifications  
11 and professional status of the exchange employee as compared to  
12 the general qualifications and professional status of the employee  
13 for whom exchanged. However, it shall not be a requirement that  
14 an exchange certificated employee be a teacher of the same subject  
15 or grade, or both, as the employee for whom exchanged. If the  
16 service authorized is other than teaching, it shall not be a  
17 requirement that the service be at the same grade level or that the  
18 service be exactly the same as the employee for whom exchanged.

19 ~~No~~

20 A person ~~may~~ *shall not* be employed as an exchange employee  
21 by a school district in the state unless he *or she* holds the necessary  
22 valid credential or credentials issued by the Commission ~~for~~  
23 ~~Teacher Preparation and Licensing on Teacher Credentialing~~  
24 ~~authorizing him the person~~ to serve in a position requiring  
25 certification qualifications in the school district proposing to  
26 employ ~~him the person~~. The commission may establish minimum  
27 standards for the credentials for exchange certificated employees,  
28 provided ~~however~~, that no exchange certificated employee shall  
29 be required to pay ~~any~~ a fee or other charge for the issuance ~~to~~  
30 ~~him~~ of any necessary valid credential or credentials authorizing  
31 him *or her* to serve in a position requiring certification  
32 qualifications in any school district in this state.

33 An exchange agreement may be made for a period not to exceed  
34 three years.

35 At the end of the assignment period, the exchange, with the  
36 consent of all parties, may be made complete and permanent.

37 SEC. 8. Section 44856 of the Education Code is amended to  
38 read:

39 44856. The governing board of a school district ~~may~~, for the  
40 purposes of providing bilingual instruction, foreign language

1 instruction, or cultural enrichment, in the schools of the district,  
2 subject to the rules and regulations of the ~~State Board of Education~~  
3 ~~state board~~, may conclude arrangements with the proper authorities  
4 of ~~any~~ a foreign country, or of ~~any~~ a state, territory, or possession  
5 of the United States, for the hiring of bilingual teachers employed  
6 in public or private schools of ~~any~~ a foreign country, state, territory,  
7 or possession. To be eligible for employment, the teacher must  
8 speak English fluently. Any persons ~~so~~ employed pursuant to this  
9 section shall be known as a “sojourn certificated employee.”

10 ~~No~~  
11 A person ~~may~~ *shall not* be hired as a sojourn certificate employee  
12 by a school district unless he *or she* holds the necessary valid  
13 credential or credentials issued by the Commission for Teacher  
14 ~~Preparation and Licensing on Teacher Credentialing~~ authorizing  
15 ~~him~~ *the person* to serve in a position requiring certification  
16 qualifications in the school district proposing to employ him *or*  
17 ~~her~~. ~~Such~~ The person may be employed ~~only~~ for a period not to  
18 exceed two years, except that thereafter ~~such~~ *the* period of  
19 employment may be extended from year to year for a total period  
20 of not more than five years upon verification by the employing  
21 district that termination of ~~such~~ *the* employment would adversely  
22 affect an existing bilingual or foreign language program or program  
23 of cultural enrichment, and that attempts to secure the employment  
24 of a certificated California teacher qualified to fill ~~such~~ *the* position  
25 have been unsuccessful. The commission shall establish minimum  
26 standards for the credentials for sojourn certificated employees.

27 SEC. 9. Section 44917 of the Education Code is amended to  
28 read:

29 44917. Except as provided in Sections 44888 and 44920,  
30 governing boards of school districts shall classify as substitute  
31 employees those persons employed in positions requiring  
32 certification qualifications, to fill positions of regularly employed  
33 persons absent from service.

34 After September 1 of any school year, the governing board of  
35 any school district may employ, for the remainder of the school  
36 year, in substitute status any otherwise qualified person who  
37 consents to be ~~so~~ employed in a position for which no regular  
38 employee is available, including persons retired for service under  
39 the State Teachers’ Retirement System. Inability to acquire the  
40 services of a qualified regular employee shall be demonstrated to

1 the satisfaction of the Commission for Teacher Preparation and  
2 Licensing on Teacher Credentialing.

3 Any person employed for one complete school year as a  
4 temporary employee shall, if reemployed for the following school  
5 year in a position requiring certification qualifications, be classified  
6 by the governing board as a probationary employee and the  
7 previous year's employment as a temporary employee shall be  
8 deemed one year's employment as a probationary employee for  
9 purposes of acquiring permanent status.

10 SEC. 10. Section 44980 of the Education Code is amended to  
11 read:

12 44980. Any certificated employee of any school district who  
13 accepts a position requiring certification qualifications in the office  
14 of any county superintendent of schools; or, any certificated  
15 employee of any county superintendent of schools who accepts a  
16 position requiring certification qualifications in a school district  
17 or office of another county superintendent of schools; or, any  
18 person employed by the ~~State Department of Education~~ *state*  
19 *department* in a position requiring certification qualifications or  
20 an employee of the office of the Chancellor of the California  
21 Community Colleges who accepts a position requiring certification  
22 qualifications in any school district or office of any county  
23 superintendent of schools; or, any certificated employee of the  
24 ~~Commission for Teacher Preparation and Licensing~~ *on Teacher*  
25 *Credentialing* who accepts a position requiring certification  
26 qualifications in any school district or office of any county  
27 superintendent of schools; shall have transferred with him *or her*  
28 to the second position his *or her* accumulated leave of absence for  
29 illness or injury. The amount of ~~such~~ leave to be transferred shall  
30 be determined in the same manner as provided in Section 44979.  
31 All other provisions of Section 44979 shall also apply to the  
32 employees and employers described in this section.

33 SEC. 11. Section 44987.3 of the Education Code is amended  
34 to read:

35 44987.3. (a) The governing board of a school district shall  
36 grant to any employee, upon request, a leave of absence without  
37 loss of any compensation for the purpose of enabling ~~such~~ *the*  
38 employee to serve on any of the following boards, commissions,  
39 committees, or groups, so long as the requirements of subdivision  
40 (b) are satisfied:

1 (1) Advisory Commission on Special Education, as provided  
2 for by Section 33590.

3 (2) ~~Advisory Committee~~ *committee* for ~~Child Care~~ *child care*  
4 *and development services*, as provided for by Chapter 2  
5 (~~commencing with Section 8200~~) of Part 6 in Section 8286.

6 (3) ~~California Advisory Council on Vocational Education~~, as  
7 provided for by Section 8000.

8 (4) ~~California Commission on Crime Control and Violence~~  
9 ~~Prevention~~, as provided for by Section 14101 of the Penal Code.

10 (5)

11 (3) Curriculum Development and Supplemental Materials  
12 Commission, as provided for by Section 33530.

13 (6)

14 (4) Educational Innovation and Planning Commission, as  
15 provided for by Section 33502.

16 (7)

17 (5) Educational Management and Evaluation Commission, as  
18 provided for by Section 33550.

19 (8) ~~Equal Educational Opportunities Commission~~, as provided  
20 for by Section 33570.

21 (9) ~~Instructional Television Advisory Commission~~, as provided  
22 for by Sections 51872 and 51873.

23 (10) ~~State Council of Educational Planning and Coordination~~,  
24 as provided for by Section 21000.

25 (11)

26 (6) Any other group, commission, or board authorized by statute;  
27 or commission or board, any of whose members are appointed by  
28 the Governor or the ~~State Board of Education~~ *state board*; whose  
29 purposes and activities are to further public education, exclusive  
30 of the ~~Commission for Teacher Preparation and Licensing on~~  
31 *Teacher Credentialing*.

32 (b) A leave of absence shall not be granted unless all the  
33 following requirements are satisfied:

34 (1) Service is performed in the State of California.

35 (2) The board, commission, committee, or group, in writing,  
36 informs the employee's district of ~~such~~ *the* service.

37 (3) The board, commission, committee, or group agrees, prior  
38 to service, to reimburse the school district pursuant to subdivision

39 (d).



1 (c) The leave of absence shall be limited to 20 school days per  
2 school year.

3 (d) Following the school district's payment of the employee for  
4 ~~such~~ *the* leave of absence, the school district shall be reimbursed  
5 by the board, commission, committee, or group ~~which~~ *that* the  
6 employee serves for the compensation paid to the employee's  
7 substitute and for actual administrative costs related to the leave  
8 of absence granted to the employee under this section, upon written  
9 request for ~~such~~ reimbursement by the school district.  
10 Reimbursement by the board, commission, committee, or group  
11 shall be made within 10 days after its receipt of the school district's  
12 certification of payment of compensation to the employee and of  
13 payment of compensation to the employee's substitute.

14 (e) The leave of absence without loss of compensation provided  
15 for by this section is in addition to the release time without loss of  
16 compensation granted to representatives of an exclusive  
17 representative by subdivision (c) of Section 3543.1 of the  
18 Government Code and the leave of absence granted employees by  
19 Section 44987.

20 (f) As used in this section, "school district" also means a county  
21 superintendent of schools.

22 SEC. 12. Section 52127 of the Education Code is amended to  
23 read:

24 52127. (a) As a condition to receiving ~~any~~ *an* apportionment  
25 pursuant to Section ~~51726~~ 52126, school districts shall have a staff  
26 development program that requires ~~any~~ *a* certificated teacher who  
27 will provide direct instructional services for a class participating  
28 in the school district's class size reduction program to receive the  
29 appropriate training necessary to maximize the educational  
30 advantages of class size reduction. This training shall include, but  
31 not be limited to, methods for providing each of the following:

32 (1) Individualized instruction.

33 (2) Effective teaching, including classroom management, in  
34 smaller classes.

35 (3) Identifying and responding to pupil needs.

36 (4) Opportunities to build on the individual strengths of pupils.

37 (b) School districts may use funds currently received for staff  
38 development or funds received under this chapter to meet the  
39 requirements of this section.

SEC. 13. Section 52163 of the Education Code is amended to read:

52163. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this article.

(a) “Basic bilingual education” is a system of instruction ~~which~~ *that* builds upon the language skills of the pupil and ~~which~~ *that* consists of, but is not limited to, all of the following:

(1) A structured English language development component with daily instruction leading to the acquisition of English language proficiency, including English reading and writing skills.

(2) A structured primary language component with daily basic skills instruction in the primary language for the purpose of sustaining achievement in basic subject areas until the transfer to English is made.

As the pupil develops English language skills, the amount of instruction offered through English shall increase.

(b) “Bilingual-bicultural education” is a system of instruction ~~which~~ *that* uses two languages, one of which is English, as a means of instruction. It is a means of instruction ~~which~~ *that* builds upon and expands the existing language skills of each participating pupil, ~~which~~ *that* will enable the pupil to achieve competency in both languages.

This instruction shall include all of the following:

(1) Daily instruction in English language development ~~which~~ *that* shall include:

(A) Listening and speaking skills.

(B) Reading and writing skills; formal instruction in reading and writing of English shall be introduced when appropriate criteria are met.

(2) Language development in the pupil’s primary language, including oral and literacy skills.

(3) Reading in the pupil’s primary language.

(4) Selected subjects taught in the pupil’s primary language.

(5) Development of an understanding of the history and culture of California and the United States, as well as an understanding of customs and values of the cultures associated with the languages being taught.

(c) (1) “Experimental bilingual programs” are:

(A) Innovative programs ~~which~~ *that* are consistent with the provisions of this article, the requirements for bilingual teaching

1 personnel pursuant to Section 52165, and the requirements for  
2 English language and primary language development pursuant to  
3 this section.—~~Such~~ *Innovative* programs may include new  
4 management approaches, greater emphasis on team teaching, or  
5 other appropriate improvements—~~which that~~ expand the learning  
6 opportunities of pupils of limited English proficiency. Unless  
7 waivers of code sections are required, projects approval of the  
8 *state* board is not required. A description of each—~~such~~ innovative  
9 program shall be included with the consolidated application for  
10 program funding and an annual evaluation of—~~such~~ *the* programs  
11 shall be included in the multiple-funded program evaluation  
12 required pursuant to Section 33403.

13 (B) Planned variation programs for the purpose of comparing  
14 and improving language development programs for pupils of  
15 limited English proficiency. A primary focus shall be on  
16 appropriate instruction for pupils of limited English proficiency  
17 whose English skills are superior to their skills in their primary  
18 language.

19 A focus may also be placed upon situations in which the number  
20 of pupils who, in accordance with Section 52165, would be  
21 required to receive instruction pursuant to subdivision (a) or (b)  
22 of Section 52163, is substantially smaller than the census indicated  
23 for the previous year, in which case all pupils of limited English  
24 proficiency shall receive instruction through individual learning  
25 programs during the preparation of the district's proposal and the  
26 consideration of the proposal by the *state* board.—~~Such~~ *The*  
27 programs shall be authorized by the *state* board in up to 300  
28 classrooms in 1982–83 and up to 700 classrooms in 1983–84 and  
29 each school year thereafter in districts—~~which that~~ are representative  
30 of the state both geographically and by size. Not more than 30  
31 ~~such~~ classrooms in 1982–83 and 50 classrooms in 1983–84, ~~which~~  
32 *that* may or may not be in another school, shall be approved in any  
33 one district.—~~Such~~ *The* programs shall not result in segregation. For  
34 districts proposing a planned variation program, the staffing  
35 requirements of Section 52165 may be partially or totally waived  
36 by the *state* board provided that the district has an inadequate  
37 number of certified bilingual teachers, that certified bilingual  
38 teachers are not replaced, that present level of effort is not reduced,  
39 and that the proposed language development program is  
40 appropriate. For each participating classroom there shall be another

1 similar classroom in the district ~~which~~ *that* has fully implemented  
2 and is in compliance with the other provisions of this article.

3 (2) Proposals for planned variation programs shall include, but  
4 need not be limited to:

5 (A) A clear statement of the purposes, goals, and objectives for  
6 planned variation programs and projected outcomes.

7 (B) A delineated management, staffing, and instructional plan.

8 (C) Pupil identification, diagnosis, and assessment procedures.

9 (D) Evidence of qualified bilingual and other instructional staff  
10 with demonstrated competence in language development, bicultural  
11 or multicultural knowledge of participating pupils, and instructional  
12 methodologies.

13 (E) Documented parent and community participation and  
14 support.

15 (F) Use of state and federal funding, where applicable.

16 (G) Evaluation component ~~which~~ *that* controls for instructional  
17 treatments, instructional engaged time, staffing, pupil language  
18 characteristics, achievement, attendance, and related data.

19 (H) For purposes of this subdivision, if formal action upon a  
20 proposal for a planned variation program is not taken by the ~~State~~  
21 ~~Board of Education~~ *state board* on or before the second regular  
22 meeting of the *state* board following the receipt of a complete and  
23 documented proposal, the proposal shall be deemed approved for  
24 the remainder of the school year.

25 Proposals ~~which~~ *that* meet the requirements of this subdivision  
26 shall be approved by the *state* board in accordance with standards  
27 established in subdivision (b) of Section 52820.

28 Proposals may be approved annually for a second, third, or fourth  
29 year based upon a demonstration of compliance with planned  
30 variation program requirements.

31 (3) The department shall include in its annual report to the  
32 Legislature submitted pursuant to Sections 33405 and 52171.6 the  
33 number and nature of experimental bilingual and planned variation  
34 programs and progress of participating pupils.

35 (4) Nothing contained in this subdivision shall be construed to  
36 permit the operation of experimental bilingual and planned  
37 variation programs contrary to the purposes or intent of this article  
38 and other state or federal statutes and regulations promulgated for  
39 and on behalf of pupils of limited English proficiency. The primary  
40 goal of all ~~such~~ programs shall be to teach the pupil English.

(d) “Secondary level language development program” is a program in grades 7 to 12—~~which~~ *that* provides a prescriptive English language program that systematically develops a pupil’s listening and speaking skills, knowledge of linguistic and grammatical structure leading to proficiency in reading and writing English. The prescriptive English language program shall be based on the diagnosis of a pupil’s language skills pursuant to Sections 52164 and 52164.1 and shall be conducted as an integral instructional program of English curriculum for not less than one full period a day or its equivalent for the purpose of providing pupils with minimum English language competencies pursuant to subdivision (e). The primary goal of ~~such~~ *the* programs shall be to teach pupils the English language.

In addition to the prescriptive English language program required by this subdivision, a secondary level language development program shall provide primary language instructional support to sustain academic achievement in nonelective content subject areas required for high school graduation consistent with current law.

Instruction in a secondary level language development program shall be provided either by a language development specialist, or by a certified bilingual-crosscultural teacher, who has received the recommendation of the local superintendent of schools verifying in writing that the teacher is competent and qualified to teach an English-as-a-second-language component, as measured by the district’s personnel evaluation system.

School districts offering an instructional program pursuant to this subdivision shall not be required to provide a secondary level individual learning program, as defined in subdivision (e), but shall be required to maintain records documenting all parental notices and of the continuing evaluation of pupil needs and services.

A school district may make a secondary level language development program available to pupils enrolled in grade 6 whenever that grade is maintained by the district in a middle school comprised of any of grades 6, 7, 8, or 9.

(e) “Secondary level individual learning program” is an individualized systematic program of instruction—~~which~~ *that* meets the needs of limited-English-proficient pupils and builds upon their language skills in order to develop proficiency in English. This program shall be offered in a manner consistent with the

1 United States Supreme Court decision in *Lau vs. Nichols* (414  
2 U.S. 563), the Equal Education Opportunities Act of 1974 (20  
3 U.S.C. Sec. 1701 et seq.) and federal regulations promulgated  
4 pursuant to ~~such~~ *those* court decisions and federal statutes. The  
5 primary goal of ~~all such~~ *the* programs shall be to teach the pupil  
6 English.

7 (f) “Elementary level individual learning program” is any  
8 program of instruction for a pupil of limited English proficiency  
9 in which any one of the three program options described in  
10 subdivision (a), (b), or (c) is individualized to meet the needs of  
11 the pupil of limited English proficiency and is offered in a manner  
12 consistent with the requirements of this article. ~~Such instruction~~  
13 *Instruction* shall be offered in a manner consistent with the United  
14 States Supreme Court decision in *Lau v. Nichols* (414 U.S. 563),  
15 the Equal Educational Opportunities Act of 1974 (20 U.S.C. Sec.  
16 1701 et seq.), and federal regulations promulgated pursuant to ~~such~~  
17 *those* court decisions and federal statutes. The primary goal of ~~all~~  
18 ~~such~~ *the* programs shall be to teach the pupil English.

19 (g) “Primary language” is a language other than English ~~which~~  
20 *that* is the language the pupil first learned or the language ~~which~~  
21 *that* is spoken in the pupil’s home.

22 (h) “Bilingual-crosscultural teacher” means a person who (1)  
23 holds a valid, regular California teaching credential and (2) holds  
24 either a bilingual-crosscultural certificate of proficiency or other  
25 credential in bilingual education authorized by the Commission  
26 ~~for Teacher Preparation and Licensing on Teacher Credentialing~~  
27 or a bilingual-crosscultural specialist credential. ~~Such a~~ *The* person  
28 shall be fluent in the primary language and familiar with the  
29 cultural heritage of limited-English-proficiency pupils in the  
30 bilingual classes he or she conducts. ~~Such a~~ *The* person shall have  
31 a professional demonstrated working knowledge of the  
32 methodologies ~~which~~ *that* are necessary to ~~educate~~  
33 *educate* those pupils.

34 (i) “Bilingual-crosscultural teacher aide” means an aide fluent  
35 in both English and the primary language of the pupil or pupils of  
36 limited English proficiency in a bilingual-bicultural program. ~~Such~~  
37 ~~an~~ *The* aide shall be familiar with the cultural heritage of pupils  
38 of limited English proficiency in the bilingual classes to which he  
39 or she is assigned.

40 (j) ~~“Board”~~ *“State board”* means the State Board of Education.

1 (k) “Superintendent” means the Superintendent of Public  
2 Instruction.

3 (l) “Basic skills” means language arts, including, but not limited  
4 to, reading and writing, and mathematics.

5 (m) “Pupils of limited English proficiency” are pupils who do  
6 not have the clearly developed English language skills of  
7 comprehension, speaking, reading, and writing necessary to receive  
8 instruction only in English at a level substantially equivalent to  
9 pupils of the same age or grade whose primary language is English.  
10 The determination of which pupils are pupils of limited English  
11 proficiency shall be made in accordance with the procedures  
12 specified in Sections 52164 and 52164.1. Pupils who have no  
13 proficiency in their primary language are not included within this  
14 definition.

15 (n) “Pupils of fluent English proficiency” are pupils whose  
16 English proficiency is comparable to that of the majority of pupils,  
17 of the same age or grade, whose primary language is English.

18 (o) “Department” means the *State* Department of Education.

19 SEC. 14. Section 52165 of the Education Code is amended to  
20 read:

21 52165. Each pupil of limited English proficiency enrolled in  
22 the California public school system in kindergarten and grades 1  
23 to 12, inclusive, shall receive instruction in a language  
24 understandable to the pupil that recognizes the pupil’s primary  
25 language and teaches the pupil English.

26 (a) In kindergarten and grades 1 to 6, inclusive, the following  
27 shall apply:

28 (1) If the language census indicates that any school of a school  
29 district has 10 or more pupils of limited English proficiency with  
30 the same primary language in the same grade level or 10 or more  
31 pupils of limited English proficiency with the same primary  
32 language, in the same age group, and in a multigrade or ungraded  
33 instructional environment, the school district shall offer instruction  
34 pursuant to subdivision (a), (b), or (c) of Section 52163 for those  
35 pupils at the school. If there are pupils of limited English  
36 proficiency with different primary languages who do not otherwise  
37 satisfy the program requirements of subdivision (a), (b), or (c) of  
38 Section 52163 or of this subdivision, a language development  
39 specialist defined in subdivision (b) may be used.

(2) To the extent state or federal categorical funds are available, the services, as described in this paragraph, are required for pupils of limited English proficiency in concentrations of fewer than 10 per grade level. If there are fewer than 10 pupils of limited English proficiency in the same grade, but at least 20 pupils of limited English proficiency in the school with the same primary language, the school district shall provide at least one certified bilingual-crosscultural teacher or teachers on waiver as defined in Section 52178 or 52178.5 and an individualized instruction program as defined in subdivision (f) of Section 52163 for those pupils at the school. If the number of pupils of limited English proficiency in the school exceeds 45, the district shall provide two of those teachers. These teachers may be used as resource teachers or team teachers or to provide any other services to pupils of limited English proficiency as the district deems appropriate. These teachers shall be different teachers than those required pursuant to paragraph (1).

(b) The Legislature recognizes that in the past equal educational opportunities have not been fully available to secondary pupils of limited English proficiency. It is the intent of the Legislature to encourage school districts to offer a language learning program pursuant to subdivision (d) of Section 52163. Certified bilingual-crosscultural teachers or, if those teachers are not available, language development specialists assisted by a bilingual aide shall be qualified to provide instruction for those programs. Language development specialists shall be formally trained and competent in the field of English language learning, including second language acquisition and development, structure of modern English, and basic principles of linguistics, and shall meet the culture and methodology competencies established by subdivisions (b) and (c) of Section 44253.5. ~~The Commission for Teacher Preparation and Licensing~~ *on Teacher Credentialing* shall provide for the assessment of language competencies specified in this section and shall modify existing culture and methodology competency for language development specialist to ensure that they meet the crosscultural and instructional methodologies for pupils being served by those teachers. A teacher of English to speakers of other languages certificate from a commission-approved teacher training institution of higher education that meets the criteria established by the commission



pursuant to Section 44253.5 shall be accepted instead of the methodology requirement.

(c) In kindergarten and grades 1 to 12, inclusive, pupils of limited English proficiency who are not enrolled in a program described in subdivision (a), (b), (c), or (d) of Section 52163, shall be individually evaluated and shall receive educational services defined in subdivision (e) or (f), as appropriate, of Section 52163. These services shall be provided in consultation with the pupil and the parent, parents, or guardian of the pupil.

(d) As a part of its consolidated application for categorical program funds, each district receiving those funds shall include a specific plan indicating the ways in which the individual learning plans will meet the needs of pupils of limited English proficiency. The plan shall describe all of the following:

(1) Procedures used in making the individual evaluation.

(2) The pupils' levels of English and primary language proficiency and levels of educational performance.

(3) Instructional objectives and scope of educational services to be provided.

(4) Periodic evaluation procedures, using objective criteria, to determine whether the instructional objectives are being met.